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the law, of Toronto.

378
REPORT

OF THE

COMMISSIONERS ON THE DISCIPLINE

IN THE

UNIVERSITY OF TORONTO.

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TORONTO:
WARWICK BROS. & RUTTER, PRINTERS &c., 68 AND 70 FRONT STREET WEST.
1895.

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**COPY OF AN ORDER IN COUNCIL APPROVED BY HIS HONOR THE
LIEUTENANT-GOVERNOR THE 6TH DAY OF APRIL, A.D. 1895.**

The Committee of Council advise that in accordance with the provisions of Chapter 17 of the Revised Statutes of Ontario, 1887, entitled "An Act respecting Inquiries concerning Public Matters," a Commission be issued under the Great Seal of the Province of Ontario, addressed to the Honorable Thomas Wardlaw Taylor, Chief Justice of the Province of Manitoba; John Juchereau Kingsmill, of the City of Toronto, Esquire, Barrister-at-law; Edmund John Senkler, Esquire, Judge of the County Court of the County of Lincoln; Byron Moffatt Britton, of the City of Kingston, Esquire, one of Her Majesty's Counsel learned in the law, and John Campbell, of the City of Montreal, Esquire, M.A., LL.D., to inquire into all complaints that may be submitted by any student, or by any person on behalf of any student, in respect of the discipline or exercise of authority by the Councils of the University of Toronto and University College; and into all causes that led to the friction alleged to exist between such students and the said Councils, and into all matters bearing thereon; also into the qualifications, conduct, teaching and efficiency of any member of the Faculties of the University of Toronto and University College against whom any charge or complaint may be laid before them; and to inquire into the respective powers of the various governing bodies of the University of Toronto and University College with respect to the students of the said University and College, and so far as may be deemed necessary into all matters bearing on the administration of such bodies since the date of the proclamation of the University Act, 1887, R. S. O. Chap. 230, including their dealing with the discipline of students, and the various societies and associations of students, and to report to the Visitor of the University of Toronto and University College with all convenient speed the evidence respecting all these matters, together with such findings and recommendations as to them may seem just and proper, and that Your Honor by the said Commission confer upon the said Commissioners the powers authorized by the said Act.

The Committee further advise that the Honorable Thomas Wardlaw Taylor be appointed the Chairman of the said Commission.

Certified,

J. LONSDALE CAPREOL,
Asst. Clerk, Executive Council.

The Honorable the Provincial Secretary.

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REPORT OF THE UNIVERSITY COMMISSION

*To the Honorable GEORGE AIREY KIRKPATRICK,
Lieutenant-Governor of the Province of Ontario,
Visitor of the University of Toronto and of University College :—*

MAY IT PLEASE YOUR HONOR:

The Commissioners appointed by a Commission bearing date the 6th day of April, 1895, and directing them to inquire into all complaints that may be submitted by any student, or by any person on behalf of any student, in respect of the discipline or exercise of authority by the Councils of the University of Toronto and University College, and into all causes that led to the friction alleged to exist between such students and the said Council, and into all matters bearing thereon; also into the qualifications, conduct, teaching and efficiency of any member of the Faculties of the University of Toronto and University College against whom any charge or complaint may be laid; and to inquire into the respective powers of the various governing bodies of the University of Toronto and University College, with respect to the students of the said University and College, and so far as may be deemed necessary, into all matters bearing on the administration of such bodies since the date of the proclamation of the Revised Statute of the Province of Ontario, chaptered 230, and entitled "An Act respecting the Federation of the University of Toronto and University College with other Universities and Colleges," including their dealing with the discipline of students and the various societies and associations of students, and to report to the Visitor of the University of Toronto and University College, with all convenient speed, the evidence respecting all these matters, together with such findings and recommendations as might to them seem just and proper, have the honor to report.

1. The Commissioners met on the 8th day of April, 1895, at the Biological Department Buildings, and were attended by Mr. W. R. Riddell as Counsel, representing certain undergraduates of the University; by Mr. S. H. Blake as Counsel, representing the University Council and University College Council, and by Mr. H. J. Scott as Counsel, representing certain Professors who might be affected by the proceedings. Evidence was taken under oath and reduced to writing by a sworn stenographer.

2. On the opening of the proceedings, Mr. Riddell stated that he was prepared to lodge a complaint on behalf of a student who felt aggrieved by the exercise of discipline in his case by the University Council, and also a historical statement of the causes which, in the opinion of the students, have led to the friction alleged to exist between the Councils and the students, but that the students were not prepared to submit any complaints or charge against any individual Professor.

3. Thereupon the Commissioners directed that the complaint on behalf of the student feeling aggrieved, and the proposed historical statement, should be lodged and copies given to the Counsel representing the Councils and professors.

They also caused an advertisement to be inserted in several of the daily newspapers, namely, the *Globe*, the *Mail and Empire*, and the *World*, stating that they were prepared to proceed with the inquiry, and inviting any person who desired to lay before them any complaint or charge connected with the matters as to which they are directed to inquire, to do so. A copy of that advertisement (Exhibit A) is transmitted herewith.

4. In pursuance of the directions given, there was lodged a complaint on behalf of Mr. James Alexander Tucker, the student who had been suspended from lectures in the University and from all privileges of the University until otherwise ordered, setting out a statement of alleged facts, and submitting (1) that it was, under the circumstances, beyond the powers of the University Council in law to suspend him from lectures and the privileges of the University, and (2) that if the power existed, it had been unwisely and unfairly used against him. A copy of this complaint (Exhibit B) is transmitted herewith.

5. From the evidence taken, it appears that there is a paper known as the *Varsity* published weekly during a part of each year. It is the property of the students, and is issued under the superintendence of an Editorial Board and Business Board, on each of which the Literary and Scientific Society of University College, the Women's Literary Society and the School of Practical Science, are represented. In the autumn of 1894 Mr. Tucker was the Editor in Chief, and in December of that year he was succeeded as Editor by Mr. Montgomery. In the issues of that periodical between the 11th of October, 1894, and the 16th of January, 1895, various articles appeared, which were considered by members of the University Council to contain grave charges relating to the appointment of certain members of the teaching staff, their qualifications for the positions held by them, and reflecting upon the action of the Councils in regard to certain matters with which they had to deal. These articles were, in the opinion of members of the Council, expressed in language which was offensive, and likely to foster a spirit of insubordination among the students. On the 18th of January, 1895, the University Council met to consider what action should be taken in connection with an article which had appeared in the *Varsity* of the 16th of January, when the following resolution was passed: "That the President be requested to "call the editor before him and inform him that the Council requires that an "apology, satisfactory to the President, shall be inserted in the next issue of the "paper for the article published this week (pp. 104-5), and also that the President "shall be requested to instruct the editor that unless an apology is made, all "privileges of the paper arising from its connection with the University will be "withdrawn, and that on the publication of any similar objectionable articles in "future, the Council has decided to at once expel the editor."

6. The President of the University then had an interview with Mr. Montgomery, the editor of *Varsity*, who prepared and submitted an apology with which the President was satisfied, and which he required should, in pursuance of the terms of the Council's resolution, be published in the next issue of the *Varsity*. Upon the editor submitting this apology to the Editorial Board of the *Varsity*, they refused to permit the publication of it, or of any other apology, in the columns of that paper, and Mr. Montgomery resigned the position of editor. Thereupon Mr. Tucker was chosen as editor in his place, accepting the position, as he stated in his evidence, on the distinct understanding that there should be no apology, and prepared to take the consequences. Previous to that, on the

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22nd of January, a mass meeting of students had been held, when a resolution was passed that no apology should appear in the *Varsity*.

7. The next issue of the *Varsity* on the 26th of January, appearing without an apology, the University Council again met on the 29th of January, Mr. Tucker being present, when four questions were put to, and answered by him—the questions and answers as they appear in the minutes of the Council being: "(1) "Were you Editor in Chief of the *Varsity* for the issue of the 26th instant? A. I "was. (2) Did you understand that the Council required a satisfactory apology "to be inserted in the issue of the paper next following the issue of January the 16th "containing an article objectionable to the Council? A. I understood. (3) Have "you any explanation to offer? A. At the mass meeting held on the 22nd "instant, a resolution was adopted, that no apology should appear in the *Varsity* "except for any erroneous statements which might have been made. That at a "meeting of the Editorial Board held on Thursday last the apology sent to the "Council by Mr. Montgomery had been considered, and that a resolution had been "passed refusing to publish the apology. (4) Did you write the letter in the "Mail of January the 23rd, '95, signed James A. Tucker (class of '95)? A. I did, "I wrote it on January the 10th. Before he withdrew, Mr. Tucker made the "additional statement: That the Editorial Board desired to take a strong stand "upon the right to criticize in a candid way the action of the University authori- "ties, and it was with that in view that I was appointed as Editor in Chief. "That they had refused to publish Mr. Montgomery's apology because it was too "broad." On his examination before the Commissioners Mr. Tucker stated that the questions and answers are correctly given in the minutes of the Council, except that his answer to the second question was: "I was, but not through any official "intimation."

At that meeting of the Council the following resolution was passed:—

"In view of the decision of the Council of January the 18th, requiring the "Editor of the *Varsity* to insert in the next following issue of the paper a satis- "factory apology for an objectionable article published in the issue of January "the 16th, and in view of the fact that the editor of the paper, J. A. Tucker, has "not published the apology in question as required by the decision of the Council, "resolved, that he be suspended from lectures in the University, and from all "privileges of the University, until otherwise ordered by the Council."

8. At a meeting of the University College Council held on the 19th of March, 1895, the President informed the Council of the final decision of the University Council with respect to Mr. Tucker, and thereupon the following resolution was adopted: "That in view of the suspension by the University Council of Mr. J. A. "Tucker, editor of *Varsity*, for refusing to publish in that paper, after being "required to do so by the University Council, a satisfactory apology for an attack "on the University Council which appeared in the issue of *Varsity* of January "the 16th, 1895, this Council resolves that Mr. Tucker be suspended, until other- "wise ordered."

9. The Commissioners are of opinion, that while considerable latitude should be allowed to the students in carrying on their paper, and in discussing matters connected with the University and its affairs, the articles complained of were offensive, and entirely beyond the line of fair comment upon the matters with which they professed to deal. Also, that Mr. Tucker, although not the writer of some of those articles, accepting the editorship at the time he did, on the understanding that there should be no apology, and stating as he did when examined as a witness, that he approved of the language used in those articles, could stand in no better position than Mr. Montgomery, the Editor, at the time of their publica-

tion. The claim made that he was the only person qualified according to the Constitution of the *Varsity* to act as Editor in Chief, so that had he not accepted the position, the result would have been that the students' organ must either have gone out of existence, or been carried on in defiance of the Constitution, was entirely displaced by a reference to that Constitution.

10. The Commissioners find that under the various statutes of the province relating to the University of Toronto and University College, and in virtue of the authority and powers inherent in these bodies as Academic Institutions the University Council and University College Council were within their jurisdiction in dealing with the case of Mr. Tucker as they did. They are, however, of opinion that the course of the Council would have been more consistent had they, instead of suspending Mr. Tucker, acted on the first resolution, and on the failure to publish the apology, withdrawn all the privileges of the paper arising from its connection with the University.

11. The Historical Statement lodged with the Commissioners, was a lengthy narrative of events alleged to have occurred in, and to have been connected with the University of Toronto from the early part of November, 1894, down to the end of February, 1895. A copy of it (Exhibit C) is transmitted herewith.

That document concluded by saying: "But back of all this is the sentiment which the President of the University has inspired in the students towards him. The sentiment referred to as inspired by President Loudon, is a feeling that President Loudon is unworthy of belief, that no confidence can be placed in the truth of his statements, and further that in approaching him the student feels that he is approaching one who is lying in wait to entrap him, and not one who is desirous of assisting the student in his difficulties, or smoothing over matters of irritation, to one who is more anxious arbitrarily to exercise authority than to remove causes of complaint. Never once, so far as is known to the members of the Political Science Club, has President Loudon made an effort to reconcile the Council with the Club, or the members thereof. In connection with this also, and as one of the causes of the friction, must be considered the charges made by Professor Dale in his letter to the *Toronto Globe* above referred to, and it is believed that the Council were also to a certain extent incensed at articles which had appeared at various times in the *Varsity*. The causes, it is submitted, which led to the present state of friction between the Councils and the students, are as follows:—

"(1) The facts alleged in the issues of the *Varsity* of date October the 17th, October the 31st, November the 7th, and November the 28th, 1894. (2) The publication of such facts in the *Varsity*. (3) The unwise action of the Council in reference to the programme of addresses of the Political Science Club. (4) The unconciliatory manner and actions of the gentleman (President Loudon) entrusted by the Councils with communicating to the students the resolutions of the Council. (5) The unwise and unlawful attempt by the Councils to interfere with the criticism on the part of the *Varsity*. (6) Threats of suppression of the *Varsity*, and threats of expulsion of the editor. (7) The attempt to render Mr. Tucker responsible for Mr. Montgomery's articles, and to force him to print an apology which it was neither his duty nor in his power to do. (8) The uncalled for suspension of Mr. Tucker. (9) Articles printed in the *Toronto papers* written or inspired by members of the University Council attacking Professor Dale. (10) The facts alleged in Professor Dale's letter to the *Globe* of the 9th of February. (11) The summary dismissal of Professor Dale. (12) The refusal on the part of the University Council to reinstate Mr. Tucker. (13) Want of confidence on the part of the students in President Loudon as herein before referred to."

12. The evidence taken by the Commissioners has established that a good deal of friction between the Councils and the students has existed for some time past.

The alleged causes arising out of interference with the criticism on the part of the *Varsity* and the dealing with Mr. Tucker by the University Council, have been practically disposed of before, under the head of his complaint against the action of the Council.

There was no proof of any articles having been printed in the Toronto papers written or inspired by members of the University Council attacking Professor Dale.

13. The statements made in the letter of Professor Dale to the *Globe* of 9th February were not properly facts, they were mere assertions. While no doubt the dismissal of that gentleman caused great excitement among the students, and led to no small part of the trouble which occurred, it must be remembered that this was the act of the Government, and it is impossible to see how any other course could have been pursued towards him.

14. As the conduct of the Chancellor of the University has been attacked in this connection, the Commissioners have deemed it proper to deal with the matter somewhat in detail. The letter of Professor Dale, was, in the first instance, sent for publication signed only "A Graduate," but upon the newspaper refusing to publish it as an anonymous letter, he signed his name to it. It appeared in the daily *Globe* newspaper on the 9th of February 1895, and contained the following language with reference to a letter which had previously appeared in the same paper and written by Mr. Walker, one of the Board of Trustees: "How can Mr. Walker happen to know that the Hon. Edward Blake never approached any member of the Government in connection with his son-in-law's appointment? How can he know that Mr. Wrong's friend, one of the Professors of the University, was not approached by some one in the same connection? How does it happen as a result of the suggestion of this friend Mr. Wrong was enabled to obtain such favorable consideration at the hands of the Government? Is it not a much more plausible theory of an appointment which outraged the feelings both of the staff and of the students, that it was brought about—no one, of course, can tell how—by the influence of the Chancellor?"

When examined as a witness before the Commissioners after some questions had been put and answered with reference to statements in the letter about the appointment of Professor Wrong—questions were asked and answered as follows:—

"Q. Again there seems to be a suggestion that this was brought about by the influence of the Chancellor: that is the Hon. Edward Blake. What foundation is there for that statement? A. Of course the first foundation would be that the irregularity in the case would naturally lead to that inference; that might be almost a sufficient reason, simply the relationship existing between Mr. Wrong and the Chancellor; at the same time I had other reasons for the statement."

"Q. And those other reasons were? A. The information which I received from a member of the cabinet, which I think justified the belief—from a member of the Ontario Government."

"Q. And what was that? A. That Mr. Blake had mentioned the application of Mr. Wrong for the position to him."

It further appeared that the member of the Ontario Government referred to was the Hon. Mr. Harcourt, the Treasurer of the Province. That gentleman was examined as a witness and stated, that while acting as Minister of Education, he

had a conversation with Mr. Dale, an old College friend, in which University matters were discussed. He stated that when speaking of certain matters : " I gathered from his manner, from what he said, that he thought that Mr. Blake perhaps had interfered with these appointments. He did not say that he had. " Mr. Dale never said that to me, that Mr. Blake had interfered, or that he knew " that he interfered. I wished to disabuse his mind of any such notion as to this " particular appointment of Professor Wrong. I stated to Mr. Dale then that I " had only once overheard the Chancellor mention the name of his son-in-law, and " on that occasion the reference to it was parenthetical, it was an interjection. " What he said, he said speaking even more rapidly than he ordinarily does, and " he said, as to that matter, speaking of the History appointment, we had been " discussing two or three other matters, the Chancellor and myself—I was then " acting Minister of Education—he said, ' As to that I can say nothing, as Mr. " Wrong is my son-in-law.' His manner of speech forbade my saying a word, and " I did not say a word, had not time to if I wished, and in justice to the Chancellor " who is absent, I want very strongly to say this, that what he did say was said by " way of interjection, and that he himself forbade me speaking of it at all. Now " I had better say how I came to see Mr. Blake. I saw Mr. Blake in his own " office, with a view of settling one or two matters. This is some time ago, it will " be remembered, and I could not be expected definitely as to date and as to words, " to recall it ; but the one matter related to Dr. Kirschmann or Prof. Kirschmann, " I do not know what his title is ; the other matter related to Mr. McEvoy. Those " were the main matters discussed. The interview closed with my undertaking " to correspond with Dr. Kirschmann, which I did : it closed with his undertaking " to come to some understanding with McEvoy, and with that matter I had " nothing else to do thereafter. This matter then came up only incidentally and " it was hurriedly, as I say, disposed of in just those words to which I have " alluded."

15. The Commissioners find that there is no foundation for any charge, or even suspicion, that the Chancellor, Hon. Edward Blake, used his influence to have the appointment of Professor Wrong made, or that he in any way interfered about it. Also, that there was nothing said by Hon. Mr. Harcourt to Mr. Dale which could in the slightest degree justify the statement that he had, as a reason for saying the appointment of Professor Wrong was brought about by the influence of the Chancellor, information which he received from a member of the Government.

16. The action of the Council in reference to the programme of addresses of the Political Science Club had also a good deal to do with the friction and trouble which existed. That Club was formed last autumn among the students in the department of Political Science, was numerically strong, and had Professor Mavor as its honorary president. At a meeting of the Executive Committee held on the 7th of November, 1894, a programme of the meetings of the Club during the winter was prepared and written down by Professor Mavor. At that meeting it was proposed, by a member of the Club, that one meeting should be devoted to the subject of labor, and that two men, Messrs. Jury and Thompson, who had devoted considerable attention to that subject, should be asked to address the Club at that meeting. To this proposal Professor Mavor made no opposition, but knowing that some years before, when Mr. Jury had addressed, or been expected to address, a then existing Political Science Association in the University, objection had been taken to his doing so, he warned the members of the Committee that there might be opposition again, saying at the same time, that the proposal possibly could be carried out, provided it were kept quiet. By indiscretion on

the part of some one, it was the next day, or within a few days after, announced in a newspaper in the city of Toronto, that Messrs. Jury and Thompson were to address the Club. At the next meeting of the Committee, Professor Mavor said to them, that in consequence of this public announcement, what was before difficult had now become well nigh impracticable, according to some members of the Club, or as Professor Mavor remembers the statement, "now impossible." In the meantime, a copy of the programme containing the names of Messrs. Jury and Thompson had been sent to President Loudon to be laid before the Council. That the programme of a society or association, such as the Club, should be laid before the Council, does not seem to have been required by any written rule or regulation which can now be produced. It was said, that to do so was at one time imperative, but it was admitted that none has been laid before the Council since the great fire, and it may be for some time even before then. But be that as it may, there can, from the evidence, be no doubt that the Committee of the Club expected and understood that this particular programme was to be laid before the Council. At this second meeting, the question of having Messrs. Jury and Thompson address the Club was again discussed, and while the members of the Club no doubt expressed a strong desire to hear them, Professor Mavor received the impression that he was authorized to strike out their names from the programme, and he accordingly did so before it was presented to the Council. The programme does not seem to have been formally submitted to the Council for approval or approved of, but in the minutes of a meeting held on the 19th of November there is an entry that the secretary of the Political Science Club wrote submitting a programme for the season, and asking for the use of some one room in University College for the regular meetings of the Club, and of the Hall in the Gymnasium for their public meetings. The first request was granted, and the second referred to the joint Committee on the Gymnasium for action. The programme then before the Council did not contain the names of Messrs. Jury and Thompson. As the opening meeting of the Club was to be held on the 28th of November, and to be addressed by Professor Mavor, the Honorary President of the Club, it was desired to have a printed programme for the season ready by that time. At the second meeting of the Committee, Professor Mavor distinctly stated that a proof of this programme must be shown to him before it was struck off and issued. It was placed in the printer's hands without the two names in question, but after Mr. Greenwood, the President of the Club, knew from Professor Mavor that the Council had passed it without them, and subsequently, on his saying that the Club was bound to hear these men, receiving from Professor Mavor the reply that he was afraid they would have to go down town to hear them, Mr. Greenwood added the names to the copy in the printer's hands. No proof was ever shown to Professor Mavor, who for the first time saw the programme when about to begin his lecture to the club on the 28th of November, about 100 copies having then been distributed. It is sought to excuse the not showing a proof to Professor Mavor on the ground that the printer did not send it until about 1 o'clock on the afternoon of the 28th, the programme itself having then to be struck off before 4 o'clock. It is, however, plain from the evidence that the copy had been for some days in the printer's hands and that no such effort was made to urge him on as might have been made, and which would have secured a proof in time for its having been shown, as promised, to Professor Mavor. In consequence of this breach of faith, as he regarded it, and as he was justified in regarding it, Professor Mavor resigned the Honorary Presidency of the Club. Following upon this, letters were written by the Club to the Council and considered by that body, the result being that the approval of the Council to the programme, which had been given, was revoked. In connection with this, an attempt was made to show

that the Council acted for an entirely different reason from that which they gave. No doubt, objection existed to Messrs. Jury and Thompson being permitted to lecture in the University on the ground of the religious opinions, of at all events the first named; and members of the Council, while not themselves taking any such ground, felt that they must respect the scruples and feelings of a large and influential number of those who are supporters of the University, or connected with affiliated institutions; but there is no doubt upon the evidence, that the final action of the Council with reference to the programme of the Political Science Club was really based upon the reason assigned, that one programme having been approved of, the club had printed and issued a different one, as the members of the Council believed, in opposition to, and in defiance of their authority.

17. During this dispute between the Council and the Political Science Club, the members of the latter seem to have put forward the wholly untenable claim that they had the right to select outside lecturers to deliver lectures and addresses within the University, and to do so while the statute expressly provides that no lecturing or teaching of any kind shall be carried on in the University by any others except the duly appointed professors and teachers, without the authority of the University Council.

18. Having dealt with the preceding matters, it may not be out of place to refer more particularly to the provisions of the statute.

By the second section of chapter 230 of R. S. O. (1887) it is enacted that "The University of Toronto shall continue to be a body corporate, with power to hold any real property assigned to it under the provisions of any former Act or of this Act, and with such other powers and privileges as are conferred upon it by those portions of the charter remaining in force, which were granted in the eighth year of the reign of His late Majesty, King George the Fourth, or by any former Act, but such powers shall be exercised in accordance with the provisions of this Act."

"(2) The Chancellor and Vice-Chancellor, and the Senate and all officers, and all existing appointments, statutes, rules and regulations affecting such University, shall continue, subject to the provisions of this Act."

By the 68th section it is enacted that "The Collegiate Institution heretofore constituted at the City of Toronto by the name of 'University College,' is hereby continued, and the body corporate called 'The Council of University College,' and the President, Professors, officers, servants and all other existing appointments, and all statutes, by-laws, rules and regulations of such Council are hereby continued, subject to the provisions of the Act."

By the 56th section it is enacted that "The University Council shall consist of a President, appointed by the Lieutenant-Governor in Council (who shall also be President of University College) and of the Professors of the University; and such Council shall have full authority and entire responsibility of discipline over all students in relation to the lectures and other instruction by the Professors, lecturers and other teachers of the University, and no lecturing or teaching of any kind shall be carried on in the University or in the School of Science by any others except the duly appointed professors and teachers, without the authority, of the University Council."

By the 57th section it is enacted that "The University Council shall have entire authority and responsibility for all work carried on by societies and associations of students of the University, provided always that all such authority and responsibility shall be limited to the conduct of the students in relation to such societies and associations as are organized in connection with the University."

which they gave, being permitted to sit at all events and in cases taking any part of a large and varied, or connected course, that the final examination in Political Science and in Economics having been given by the members of the University.

Political Science Club, has untenable claim to be and addresses itself expressly provides for the University by the authority

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is enacted that there shall be with power to amend former Act or of be carried upon it by the eighth day by any former provisions of this

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council shall have societies and such authority in relation to the Univer-

By force of the two sections just quoted, i.e., the 2nd and the 68th, the respective powers of the University and of University College are fully preserved, except so far as altered by the Revised Statute, and the only alteration to be found is what is made by sections 56 and 57.

The effect of these last named sections is to vest in the University Council the powers named in them, and if any of these had previously been vested in the council of University College, they have ceased to be so vested.

No mode is pointed out in which the authority given by these sections is to be carried into execution, and no express authority to pass statutes or regulations is given, and it would appear that the authority can be exercised directly without any such statutes or regulations being passed.

It is clear that under the last clause of section 56, the persons engaged by the Political Science Club to deliver lectures in this University must be duly appointed professors or teachers of the University, or must have the authority of the University Council.

It is also clear that the *Varsity* is a paper issued by a society or association of students of the University organized in connection with the University, and fairly comes under the term "work carried on" used in that section, and consequently the University Council has entire authority and responsibility for it.

These considerations show that the conduct of the students both in printing the programme without the authority of the University Council, and in refusing to publish the apology demanded in the *Varsity*, was contumacious and inconsistent with their duty under sections 56 and 57.

19. It is worthy of note that while charges have been made against Professor Mavor, and as to his treatment of the students in connection with the programme of the Political Science Club, yet when he, in consequence of the disagreement, resigned the Honorary Presidency, he was earnestly requested by the club to withdraw his resignation and continue holding that office.

20. As to the allegations in the Historical statement respecting President Loudon, the evidence leaves no doubt that a widespread feeling of dissatisfaction exists among the students, and evidence was offered to show that many of them regard him, or profess to regard him, as unworthy of confidence and unworthy of belief. When, however, they came in their evidence to assign reasons for entertaining such opinions of the President, they completely failed to show any justification for their alleged belief.

21. In attempting to justify their position they relied upon several things which were also spoken of by witnesses as causes of the alleged friction. One of these is what has been called the Shed trouble. A shed which had been put up in connection with the repairs to the main building after the fire, was not removed when the repairs were finished because there was stored in it a quantity of builders' plant and material to be used in the erection of the Chemical Laboratory next spring. This shed was torn down and destroyed one evening, a proceeding for which several students were fined by the Council. They claim that in tearing down this shed they were, if not incited to do so by the President, at least carrying out his wishes. Even upon their own showing all that he said about this shed was that it was an eyesore, certainly nothing to warrant the tearing down of the shed and the consequent exposure of the property it contained, occasioning a loss to the University of at least two hundred dollars.

22. It is also alleged that at an interview with Mr. Montgomery over the *Varsity* trouble, President Loudon said that the Council had determined to suppress *Varsity*, but afterwards at an interview with Mr. Tucker, Mr. Greenwood

and another, he denied having done so. No evidence has been adduced to show that he did make any such statement to Mr. Montgomery. His own account of what passed then (Mr. Montgomery was not called) is that when the resolution of the Council as to privileges being withdrawn was referred to by him, Mr. Montgomery replied that that amounted to the suppression of *Varsity*. The President affirms that this was the first occasion in which the word suppression was used, and although he may then have spoken of the suppression of privileges, he did not speak of the suppression of *Varsity*. There is no evidence that he did so.

23. It is also said in connection with the refusal to allow the programme of the Political Scienc... b with the names of Jury and Thompson upon it, that President Loudon said that he was personally opposed to having Mr. Jury, and said "If for no other reason, because he was an active politician, a notorious Grit" "and agitator, and for the same reason he would object to Sir Richard Cartwright "lecturing in the halls," and that when President Loudon was subsequently asked by a reporter of the *Empire* whether he had made this statement, he denied having done so and said the statement was absurd and untrue.

Professor Dale when first called as a witness stated that the President did make the above statement almost in the words given, and from his evidence then given it would appear as if the statement was not qualified in any way by any other statement made at the same time. When, however, Professor Dale was recalled two days afterwards he corrected his former statement and said, "With "regard to the statement of the President that he would not allow Jury or Sir "Richard Cartwright to speak, I would say that he said he would not allow any "prominent man of the Conservative party either to lecture." Professor Dale made this correction of his own motion and voluntarily.

This correction completely changes the character of the statement imputed to the President and shews that his objection was to allow strong partizans to lecture no matter what their political faith, whereas as the statement was originally made it appeared that his objection was to partizans who belonged to the Grit party, and the statement was published in the *Star* of 23rd January, 1895, almost in the words given above, under the heading "Jury is a Grit" "For that reason I object, says President Loudon."

Charles J. Long, the reporter who interviewed President Loudon, swore that he asked him if the reason stated in the *Star* was correct—he was not sure whether he mentioned the *Star*—but it was in consequence of the article in the *Star* that he interviewed him and he had it in his mind when he spoke to him. President Loudon's answer was that he had heard they were all Grits up there ; and he said the statement was absurd and untrue.

Upon this state of facts there can be no doubt that President Loudon's answer to the reporter was quite correct and true. He is shown to have made a statement that he would not allow any strong political partizan to lecture—he is inaccurately reported to have said that he would not allow a partizan of one side to lecture, apparently because he belonged to that party, and when asked if that was the case he denied it.

The Commissioners must find that this charge of untruthfulness entirely fails.

24. Another matter brought forward was, what was spoken of as the Gymnasium trouble. It appears that a building was erected containing the Gymnasium proper for athletic purposes, a hall for larger meetings of student societies, and other rooms for smaller meetings. This hall and other rooms are known as the

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students' union. The students claim that they contributed about \$9,000 towards the cost of this building; the authorities on the other hand allege that while the building cost \$30,000 the amount contributed by the students from themselves and subscriptions secured by them, was \$1,750 only. In connection with this building the Athletic Association, a club having members connected not only with University College, but with Victoria College, the School of Practical Science, and other affiliated institutions, made a claim to be entitled to exercise control over it; and that other societies desiring the use of the hall or rooms in the students' union should apply to the association for permission to do so. Some of the societies were willing to have the association exercise such control, but individual members were opposed to that. There is some dispute as to whether the association claimed to be entitled to the absolute control, or only that they should have the immediate control under the Council.

But in taking the stand the authorities did, refusing such control, and deciding that the allocation of accommodation to student societies should be made annually by a joint standing committee of the Councils, they were clearly within their right, the statute declaring that the property shall be deemed in the legal possession and under their control. No other course of dealing with the building could properly conserve the rights and interests of all the societies and associations concerned, and prevent jealousies and strife among them.

25. A consideration of the evidence, oral and documentary, which has been placed before the Commissioners leads them to believe, that some, at least, of the late troubles might have been avoided, had the authorities and the students been in closer contact, and with a stronger feeling of sympathy between them. It seems evident that there was a want of tact in dealing with the students at certain points during these troubles. At the same time President Loudon has been unnecessarily suspected of, and indeed charged with, arbitrary conduct, where the acts complained of were those of the Council, and he was only its representative, and in carrying out its decisions as its official head, brought more closely in contact with the students than the other members of the Council were.

26. The Commissioners further deem it their duty to express the opinion they have formed, based upon the evidence given by the students themselves, and the views by them freely expressed from the witness stand, viz., that in the past there has existed on the part of the students, to say the least of it, a misconception as to the scope and proper construction of the statutes regulating discipline in the University, and the real position the students should, and do, occupy with reference to the Councils of the University and College, and the degree of obedience that they are bound to render to the regulations of the University authorities.

27. Some days after the Commissioners had begun their work there were lodged with them charges against President Loudon, Professor Mavor and Professor Vander-Smissen. These charges were preferred by an undergraduate, whose name was given to the Commissioners, who was not examined as a witness, nor was his name mentioned in connection with any of the other complaints or charges laid before the Commissioners.

The charges so laid were accompanied by a list of the witnesses who could be called upon each charge. The lists of witnesses in the cases of President Loudon and Professor Vander-Smissen set out the various matters in respect of which the several witnesses would be called.

The Commissioners after considering the charges so made, held (1) that those against Professor Mavor were too vague and indefinite to be proceeded upon, and that they must be made more specific. (2) That the charges against President

Loudon and Professor Vander-Smissen were also too vague and indefinite, but that the particulars given with the lists of witnesses supplied the defect, and were sufficient to enable these charges to be proceeded with. They accordingly directed that in the case of the charge against Professor Mavor better particulars should be given, and a copy of them handed to the Counsel appearing for him; and that in the cases of President Loudon and Professor Vander-Smissen, a copy of the particulars supplied, with the names of the witnesses to the Commissioners, should also be given to the Counsel. The learned Counsel by whom the charges had been lodged with the Commissioners, declined to make the charges against Professor Mavor more specific, or to furnish copies of the particulars of the charges against President Loudon and Professor Vander-Smissen to the Counsel representing these gentlemen. On the Commissioners stating that they were prepared to proceed with the charge against Professor Vander-Smissen, Counsel stated that he would withdraw the charges.

The Commissioners then made and read to the parties publicly the following memorandum :

"As to the charges against Professor Mavor they have been held too vague in the absence of particulars, and no particulars have been given. As to the charges against President Loudon and Professor Vander-Smissen, they are, when taken with the particulars furnished by Mr. Riddell to the Commissioners, specific enough, and may be proceeded with. Mr. Riddell has given to the Commissioners the name of a complainant and the names of witnesses by whom it is alleged these charges can be proved. It was thought by the Commissioners that these particulars should be furnished to the Counsel for the parties charged. Mr. Riddell declines to furnish those particulars. The Commissioners then feel it to be their duty to hand those particulars to the Counsel for President Loudon and Professor Vander-Smissen, but now Mr. Riddell asks to withdraw them. The Commissioners allow him to withdraw the names of witnesses, but as the charges have been made, will allow anyone to give any evidence in reference to them—for or against them—in accordance with the particulars already furnished. Any person desiring to prosecute those charges may notify the Commissioners on Tuesday morning of his intention to do so."

Upon this memorandum being read, Mr. Riddell stated that he withdrew from the case so far as those charges were concerned.

28. At the time named the Commissioners met publicly, in the place where all their sittings were held, and announced their readiness to proceed with the charges; but no one appeared to prosecute them, or to offer any evidence in relation to them, so they were no further proceeded with, the Commissioners feeling that every opportunity for investigation had been given, if any person desired it to take place.

29. A copy of the charges against President Loudon, Professor Mavor and Professor Vander-Smissen, together with the particulars given to the Commissioners, along with the names of the witnesses proposed to be called against President Loudon and Professor Vander-Smissen, omitting, however, the names of these witnesses (Exhibit D) is transmitted herewith.

30. The Commissioners desire to draw attention to certain items in the Federation Act, Revised Statutes of Ontario, 1887, Chapter 230, which contains expressions so vague as to obscure the distinction in jurisdiction and control of the Senate, the University Council, and the University College Council. Such are sections 34, 39 (clause 6), 42 and 45. In view of section 38, clause 3, they suggest that section 54 be so modified as to exclude the enrolled students of federated or affiliated

colleges from evading discipline by assuming the position of extra mural applicants for examination. While approving the wisdom of section 56 in its general provisions, the Commissioners would like to see it amended so as to contain a more definite statement concerning the powers of discipline of the University Council; and they call in question the prudence of section 57, which throws on the Council the entire responsibility for the work of all societies and associations of students. The history of other educational institutions indicates that vagueness in the letter of the law often leads to violation of its spirit, and that minute superintendence, combined with espionage, almost necessarily provokes revolt. The experiment of Cornell University in creating a student Council has not proved wholly successful, but its object, which is the enlistment of the student body on the side of college discipline and self-respect, is one to be sought after, as tending towards honorable relations between professors and students.

31. In this connection the Commissioners give a letter received, in reply to a request by the Chairman, from a Canadian graduate, who, after taking a post-graduate course in philosophy at Cornell University, has spent some time there this spring:—

"The student Court at Cornell University was not established as a reform demanded by the students. It was the idea of President Schurman, and owed its origin to him. As a consequence it has never received that hearty support from the student body which is absolutely necessary for its success. Dr. Schurman informed me, last month, that some of the students are dissatisfied and object to the discipline being in the hands of their fellow-students, but he was unable to say whether that feeling is at all general. The President's secretary was of the opinion that it is confined to a small minority of the students. Upon enquiry, however, I found that the dissatisfaction is widespread. I was assured that the Court does not command the confidence of the students, because the best men regard election to it as a doubtful honor, and refuse to become candidates. Most of the candidates are students who could not be elected to any other office in the gift of their classmates. The students as a whole take but little interest in the elections, and the vast majority of them abstain from voting. In a class of 400 a poll of 100 would be a large vote.

"Some odium is incurred by the members of the Court, but I do not think it has ever been, as yet, very great."

32. At a sitting of the Commission Mr. Blake stated that he had requested Mr. Goldwin Smith to give the Commissioners an expression of his views in connection with the question of University government, and on a subsequent day Mr. Smith had a conference with them. He afterwards handed in a statement, in writing, containing the substance of what he then said. This document (Exhibit E) is transmitted herewith.

33. Professor Pike and Professor Cameron also attended the Commissioners and laid before them a paper of suggestions made by the University Council and University College Council. This paper (Exhibit F) is also transmitted herewith.

34. The Commissioners also had an interview with the Rev. President Burwash of Victoria University, at which, while expressing sympathy with the University authorities in the recent difficulty, he indicated the impossibility of any President managing a thousand students, and quoted the late President McCosh of Princeton to the effect that even five hundred are more than one man can control. Following the analogy of the older English Universities with their college systems, he urged the necessity for an organization of the students into manageable bodies, with a view to personal influence on the part of professors

and teachers. In such an organization he showed that the holders of fellowships may be an element of danger, their minds being divided between sympathy for the students and aspirations towards the position of the professoriate.

35. The Commissioners began their work on the 8th instant. They were engaged in taking evidence and in hearing argument of Counsel from the 10th to the 23rd instant inclusive. They had before them calendars of leading British and American universities, and papers by distinguished authors on college work and discipline. Understanding that the Government desires a speedy return of the Commission, the Commissioners were unable in the time taken to more fully enquire into and consider the questions of "the respective powers of the governing bodies of the University of Toronto and the University College with respect to the students of the said University and College, and into all matters bearing upon the administration of such bodies, since the date of the proclamation of the R. S. O., chap. 230, and of dealing with the various societies and associations of students," so as to enable them to report recommendations other than those already appearing in this report. This is a matter of regret, as it would be important to further ascertain and consider how some other great Universities are governed and how they deal with university and college societies, and how, and to what extent, and with what result, certain irregularities are made subjects of discipline, and to ascertain and consider other matters bearing upon the administration of such bodies, so that such recommendations might be made as would result in practical good to the University of Toronto and University College.

36. The Commissioners were much gratified to have presented to them documentary evidence of the high character of the teaching imparted in various departments of University and College work, and to learn that recent graduates of the University are filling honorable positions in the larger educational institutions of the United States. While deplored, therefore, the unfortunate accidents which have called them as a body into existence, they see no reason for apprehension as to the future of the University of Toronto, nor for any fear that the wonderful increase in the number of its Alumni during the past five years will suffer a check in consequence.

All which is respectfully submitted.

T. W. TAYLOR,
Chairman.
J. J. KINGSMILL.
E. J. SENKLER.
B. M. BRITTON.
JOHN CAMPBELL.

TORONTO, 27th April, 1895.

EXHIBIT A.

UNIVERSITY COMMISSION.

The Commissioners appointed by his Honor the Lieutenant-Governor, "To inquire into certain matters affecting the University of Toronto and University College," are prepared to proceed with the said inquiry; and notice is hereby given that any student or any person who desires to submit a complaint in respect to the discipline or exercise of authority by the Councils of the University of

Toronto and University College, or in respect to the friction alleged to exist between the students and the said Council, or as to the qualifications, conduct, teaching and efficiency of any member of the University of Toronto and University College, may submit the same in writing on or before Saturday, the thirteenth day of April inst., addressed to the Hon. T. W. Taylor, Chairman, University Commission, Biological Department, Toronto.

The said complaints, if any, will be considered by the Commission, and parties making the same will be heard in support thereof at the Biological building on Tuesday, the 16th day of April inst., at 10 o'clock in the forenoon.

T. W. TAYLOR,
Chairman of Commission.

Dated 8th April, A. D. 1895.

EXHIBIT B.

COMPLAINT SUBMITTED TO THE COMMISSION BY JAMES ALEXANDER TUCKER, UNDER CLAUSE 1 OF THE COMMISSION.

Mr. Tucker had during the fall of 1894 been editor of the *Varsity*. He was relieved from that position and Mr. Montgomery elected in his stead on or about the middle of December, 1894.

On January 16th appeared an article in the *Varsity*, which will be referred to, referring to the state of affairs existing between the Political Science Club and the University Council. A meeting of the University Council was held January 18th, 1895, and subsequently on the 19th President Loudon called upon Mr. Montgomery to apologize, threatening that in default Mr. Montgomery would be expelled and the *Varsity* suppressed. Mr. Montgomery apologized, and on January the 23rd his apology was accepted by the University Council.

On January the 24th a meeting was held of the Business and Editorial Boards of *Varsity*, at which meeting these Boards refused to endorse Mr. Montgomery's apology or to publish the same, whereupon Mr. Montgomery resigned and Mr. Tucker was appointed editor.

On January the 26th, a *Varsity* appeared not containing an apology, whereupon on January the 29th the University Council again met. Upon that day the University and College Councils being both present, Mr. Tucker was summoned before the Councils and was asked four questions by the President. Mr. Tucker protested that if the Council were trying him upon any charge he was entitled to have Counsel present, but the President pressed him to answer these questions, and he did answer them. The questions and answers thereto were as follows:

Q. Were you editor-in-chief of the *Varsity* on January the 26th? A. I was.

Q. Were you aware that the Council had ordered that an apology should be printed in the issue of that date for an article appearing in the previous issue? A. I was, but not through any official intimation.

Q. Were you the writer of a letter appearing in the *Mail* signed James A. Tucker, class of '95, University College? A. I was.

Q. Have you any explanation of your conduct to offer? The answer to this was to the effect that Mr. Tucker had accepted the position of editor of the *Varsity* on the understanding that no apology was to be printed; that a mass

meeting of over 500 students held by the Literary Society on the previous Wednesday had not endorsed Mr. Montgomery's course, and that at a meeting subsequently held, the Editorial and Business Boards of the paper had refused to ratify the apology sent by him to the Council; that he had consequently resigned, and that Mr. Tucker was elected to and accepted the position of Editor on the distinct understanding that no apology was to be made. Thereupon, the President requested the members of the College Council to retire, that the University Council might deal with the matter, and he also requested Mr. Tucker to leave.

On January the 30th, the registrar told Mr. Tucker that Prof. Pike wished to see him at 12 noon, and that the President would see him in the afternoon, and informed him of the action of the Council.

Upon calling upon Prof. Pike, he tried to induce Mr. Tucker to apologize.

In the afternoon the President informed Mr. Tucker that the University Council had sentenced him to suspension from lectures. Mr. Tucker asked that the resolution of the Council be produced, whereupon the President read the resolution and directed the registrar to furnish Mr. Tucker with a copy, which was subsequently done, the resolution being in these words:

"In view of the decision of the Council of January the 18th, requiring the editor of the *Varsity* to insert in the next following issue of the paper a satisfactory apology for an objectionable article published in the issue of January the 16th, and in view of the fact that the editor of the paper, J. A. Tucker, has not published the apology in question as required by the decision of the Council,

"Resolved, that he be suspended from lectures in the University, and from all privileges of the University until otherwise ordered by the Council."

The President, however, upon January the 30th, informed Mr. Tucker that the sentence of suspension would not go into force immediately, that it was in abeyance, and that Mr. Tucker would have a week to consider his position; whereupon Mr. Tucker replied that the President could not look for an apology even if he, Mr. Tucker, were threatened with expulsion.

In the issue of the *Varsity* of January the 26th, had appeared a retraction only of the erroneous statement made in the article to which the Council had taken objection. During the subsequent week Mr. Tucker continued to attend lectures, and having received no notification of the sentence being put into operation, he continued to attend lectures thereafter.

On Wednesday, February the 6th, Mr. Tucker addressed a letter to the President asking him (if he could not answer it upon his own authority) to lay it before the University Council. The letter will be produced before the Commission, but it is in effect asking whether Mr. Tucker would be barreled from writing at the examinations in May, or, having written, from obtaining his degree. No answer was given to this until February the 11th, when the registrar sent a letter, by the instruction of the President, acknowledging the receipt of Mr. Tucker's letter of February the 6th, and asking, for the President, for an explanation as to Mr. Tucker's continued attendance at lectures in defiance of the Council's order of suspension.

On February the 12th, Mr. Tucker again wrote to the President stating his position and hoping for a settlement of the difficulty, which letter will be produced also to the Commission, but to this letter no answer was ever received.

Subsequently, on February the 20th, a mass meeting of the students was held in Wardell's Hall, at which, amongst other things, the following resolution was passed: "That they request that the suspension of the editor, James A. Tucker, be re-considered," and at the same meeting a committee was appointed to consult

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with and meet the Councils with that object in view. This committee met the University Council on March the 9th, and pressed upon the said Council that Mr. Tucker's suspension should be removed, but this was refused, and on March the 18th, a letter was received by Mr. Greenwood, of that committee, from the registrar, stating that the University Council, after considering the reasons presented by the students of the committee, resolved to adhere to its former decision.

As to this, Mr. Tucker complains:

(1) That it is, under the circumstances, beyond the power of the University Council in law to suspend him from lectures and the privileges of the University; and also,

(2) That if the power exists, it has been unwisely and unfairly used against him. He was in no wise responsible for the article complained of, and moreover, he is simply the mouth-piece of the students, whose property the *Varsity* and the governing boards of the *Varsity* would not permit any apology to be inserted in the *Varsity* even if Mr. Tucker were so disposed, and further, after the resignation of Mr. Montgomery, Mr. Tucker was the only person in the College who was qualified, according to the constitution of the *Varsity*, to act as Editor in Chief. So that if Mr. Tucker were to follow the example of Mr. Montgomery and personally apologize (even if that would be acceptable to the Council), the result would be that the student's organ must either go out of existence, or be carried on in defiance of the Constitution.

EXHIBIT C.

HISTORICAL STATEMENT OF THE FACTS LEADING UP TO THE FRICTION EXISTING BETWEEN THE STUDENTS OF THE UNIVERSITY OF TORONTO AND UNIVERSITY COLLEGE, AND THE COUNCILS THEREOF.

On November 7th, 1894, Professor Mavor, Professor of Political Economy, etc., in the University of Toronto, being then Honorary President of the Political Science Club, drafted a programme of addresses for that Club. The Political Science Club is an association of students in the University of Toronto and University College, who are interested in the subject of Political Science and similar subjects, and has about one hundred members. This programme contained, amongst other things, an arrangement for a labor meeting, at which addresses were to be given by Messrs. Jury and Thompson, who were prominent in labor circles in the city of Toronto. Prof. Mavor at that time informed the Committee that he thought no objection would be made to these gentlemen, provided the matter was kept quiet. He himself approved of it, but he mentioned to the Committee that about eight years ago there was some trouble about Mr. Jury lecturing in the College, which, he said, had broken up the Political Science Club, but he thought that if matters were kept quiet there would be no difficulty. By some means the matter became public that these gentlemen were to address the Political Science Club, and at the next meeting Prof. Mavor stated to the Committee that what was before difficult, had now become well nigh impracticable. It would appear that at this meeting Prof. Mavor got the impression that he was authorized to strike these two names off the list, but this authority was never given to him. As a matter of fact the officers of the Political Science Club had never understood that it was necessary that any of their programmes should be submitted to any authority, and thought that if Prof. Mavor

did not object, no objection would or could be made by any one. As a matter of fact it is believed that no programme of any Society in connection with the University has been required to be submitted to the Council, nor has the Council interfered in any way with the programmes of any such Society.

Prof. Mavor was informed by the Committee that the members of the Political Science Club were unanimous in their wish to hear these gentlemen, and the programme was published with their names, as the Committee understood, with the consent and approval of Prof. Mavor. However, at the first meeting, November the 28th, Prof. Mavor said that he had been unfairly treated, and resigned his position as Honorary President of the club, putting his reasons in writing. About this time appeared a notice setting out certain formalities to be complied with by Societies, and making application to the Council for rooms in the Gymnasium Building. Acting upon this, on November the 30th, formal application was made to the Council, which met on December the 4th and considered the matter.

In the meantime, about November the 19th, Prof. Mavor had submitted to the Council a programme of meetings without the names of Jury and Thompson, and the Council had sanctioned the programme then submitted.

At the meeting of December the 4th, however, this former sanction was withdrawn, and the consideration of the application of November the 30th was postponed until January the 3rd, thereby preventing the lecture of Prof. Mills, which had been fixed for December the 19th.

Then on January the 8th a letter was received by the Secretary of the Club from the Registrar of the University, stating that "With regard to the programme for the authorization of which application is now made, the Political Science Club is advised that the programme having been published "without the observance of the proper preliminaries, cannot, under the circumstances, be sanctioned by the University Council."

In connection with this matter President Loudon was seen, and he stated in speaking of the reasons why the programme had not been approved, "That he "was personally opposed to having Mr. Jury," and said "If for no other reason, "because he was an active politician, a notorious Grit and agitator; and for "the same reason he would object to Sir Richard Cartwright lecturing in the "Halls."

Prof. Wrong in speaking to his class, said that some seven or eight years ago Mr. Jury had been permitted to lecture in the building; that for permitting this, the University authorities were most violently attacked by certain church papers, and it was a recollection of this attack and a fear of a similar occurrence that had led to efforts being made in the first instance to have the Club strike these two names off the Political Science Club's programme. It appeared clear to the members of the Political Science Club that for some reason the University Council did not wish these gentlemen to address the Club, and that, for reasons which did not affect their judgment upon the questions as to which they were to address the Club.

The next was the publication on January the 16th of an article in the *Varsity* to which the Council took exception. This article was written by Mr. Montgomery, and has been referred to in Mr. Tucker's complaint. On January the 19th Mr. Montgomery, the Editor, was sent for and informed by President Loudon that the Council had decided that an apology must be printed in the next number of the paper, and if such apology were not made, Mr. Montgomery would be expelled and the paper suppressed. Further proceedings in connection with

this matter have been detailed in the complaint of Mr. Tucker upon the first branch of the investigation.

About this time and a little later, a Petition signed by a number of the students, some 400 in all, was forwarded to the Government. (A copy of this Petition will be furnished to the Commissioners.) This Petition in the long run was not granted.

On January the 11th, by reason of the refusal of the University Council to grant rooms, etc., the Political Science Club passed resolutions to engage a hall for the purpose of holding a meeting to hear Messrs. Jury and Thompson.

The President on January the 23rd caused an article to be published in the Toronto papers setting forth the position taken by the Council and its reasons therefor, whereupon the Political Science Club published its statement in the Toronto papers on January the 25th.

On January the 31st a Mass Meeting of the students was held, at which a Committee of five was appointed to draw up a statement on their side of the case, and such a statement appeared in the *Globe* of February the 2nd. On February the 4th, Prof. Wrong published an article in the Toronto papers giving his views of the situation, to which a reply by Mr. Tucker appeared on February the 5th. In the same paper of February the 4th Mr. B. E. Walker wrote an article dealing with Prof. Wrong's appointment. On February the 9th Prof. Dale replied. This letter of Prof. Dale appearing in the *Globe* of February the 9th led to his dismissal by the Government, which dismissal was announced on February the 15th.

On the 15th of February, a Mass Meeting was held of the students, an account of which will be found in the *Globe* of February the 16th at which, amongst other things, a resolution was passed of sympathy for Mr. Hellens, who resigned his position on the staff, owing to the dismissal of Professor Dale, also respectfully requesting the reinstatement of Professor Dale, and pledging the students to abstain from all lectures of the University until his reinstatement, or until the dismissal of Professor Dale was re-considered. This meeting motion to abstain from lectures was carried with only four dissenting voices. Immediately thereafter on Feb. the 16th, articles appeared in the *Globe* and *Mail* attacking Professor Dale, and also in the *World* of about that date, which articles were written or inspired by members of the University Council. A number of students continued to attend partially, certain students taking the 4th year honor mathematics, and while they did not attend lectures, took the laboratory work, and President Loudon stated that the Council could not permit a class to take the laboratory work without attending the lectures. About the same time a number of lady students received notice ultimately emanating from the President, that any one of them advising another to abstain from lectures, would render herself liable to expulsion. This notice came through the lady superintendent, Miss Salter. About the same time President Loudon locked the doors of the Biological Building upon certain students there meeting, doing this with the view of preventing an address to these students by Messrs. Tucker and Greenwood.

On February the 20th a Mass Meeting of students was held at Wardell's Hall, the proceedings of which appeared in the papers of February the 21st. The Minister of Education had previously stated that a commission would not be granted upon the application of the students unless, and until they made specific charges at the meeting of February the 20th. The legal opinion of Messrs. Howland, Arnoldi & Bristol, Barristers of Toronto, was read advising against such specific charges being made.

The above is an historical statement of the cause of the friction now existing, but back of all this, is the sentiment which the President of the University has inspired in the students towards him. The sentiment referred to as inspired by President Loudon, is a feeling that President Loudon is unworthy of belief, that no confidence can be placed in the truth of his statements, and further that in approaching him, the student feels that he is approaching one who is lying in wait to entrap him, and not one who is desirous of assisting the student in his difficulties, or smoothing over matters of irritation, to one who is more anxious arbitrarily to exercise authority than to remove causes of complaint. Never once so far as is known to the members of the Political Science Club, has President Loudon made an effort to reconcile the Council with the Club, or the members thereof. In connection with this also, and as one of the causes of the friction, must be considered the charges made by Professor Dale in his letter to the *Toronto Globe* above referred to, and it is believed that the Council was also, to a certain extent, incensed at articles which had appeared at various times in the *Varsity*, amongst others in the *Varsity* of Oct. the 17th, Oct. the 31st, Nov. the 7th and Nov. the 28th.

The causes, it is submitted, which led to the present state of friction between the Councils and the students are as follows:—

- (1) The facts alleged in the issues of the *Varsity* of date, October the 17th, October the 31st, November the 7th and November the 28th, 1894.
- (2) The publication of such facts in the *Varsity*.
- (3) The unwise action of the Council in reference to the programme of addresses of the Political Science Club.
- (4) The unconciliatory manner and actions of the gentleman (President Loudon) entrusted by the Councils with communicating to the students the resolutions of the Council.
- (5) The unwise and unlawful attempt by the Councils to interfere with the criticism on the part of the *Varsity*.
- (6) Threats of suppression of the *Varsity* and threats of expulsion of the editor.
- (7) The attempt to render Mr. Tucker responsible for Mr. Montgomery's articles, and to force him to print an apology which it was neither his duty, nor in his power, to do.
- (8) The uncalled for suspension of Mr. Tucker.
- (9) Articles printed in the Toronto papers, written or inspired by members of the University Council, attacking Professor Dale.
- (10) The facts alleged in Professor Dale's letter to the *Globe* of February the 9th.
- (11) The summary dismissal of Professor Dale.
- (12) The refusal on the part of the University Council to reinstate Mr. Tucker.
- (13) Want of confidence on the part of the students in President Loudon as hereinbefore referred to.

EXHIBIT D.

The following charges are laid against President Loudon :—

(1) He has entirely failed to win and keep the respect or confidence of the undergraduates during his incumbency of the office of President.

(2) He has not been frank and candid or conciliatory in his dealings with the students.

(3) He is destitute of the personal dignity which ought to characterize the President of a great University.

The following charges are laid against Professor Mavor :

(1) That he has not sufficient knowledge of the subjects which he is expected to teach.

(2) That if he is possessed of sufficient knowledge, he lacks the capacity to express what he does know, and to impart information upon those subjects.

(3) That his manner and person are repellent.

(4) He does not inspire respect or confidence in those whom he teaches.

(5) He is in the habit of nagging and worrying students without any or sufficient reason therefor.

The following charges are laid against Professor VanderSmissen :

(1) He is indolent, neglects his classes, fails to attend during the full hours of lectures, and while he may know his work, he fails through indolence and carelessness to teach properly.

AS TO PRESIDENT LOUDON.

In addition to the matters which have been and are investigated by the Commission, the following matters in connection with President Loudon should be considered :—

1. *The Hose Incident.* President Loudon, in October, 1892, with his own hand, turned the hose on students.

2. *The Shed Incident.* Two men who took no part in the pulling down of the shed were fined \$15 each, a sum far in advance of the value of the shed itself.

The President to Mr. Montgomery and others, threatened to suppress the *Varsity*; subsequently on meeting a committee, he declared that he had never used the word "suppressed."

That he had spoken of suppressing the *Varsity* will be proved.

The President, as will appear by an article in the *Globe* on May the 17th, 1893, referred to the students in the Department of Political Science as "lame ducks."

The President denied, in an interview with an *Empire* reporter, Mr. Long, that he was opposed to Mr. Jury because he was "a notorious Grit and agitator," etc.

The President gave Gillies a written permit to use a room in the basement of the University for the *Varsity*.

Tucker used the key belonging to Gillies and gave it to Spence to give to

Gillies. Spencer kept it by order of the President and would not give it to Gillies. The President denied that he had granted the *Varsity* the use of this room, although he had signed the permit himself.

On Monday afternoon, February the 18th, 1895, during the boycott, a meeting was held by the first and second year medicals in the Biological Building, at three o'clock.

During the afternoon, before the hour of meeting, the President went down to the Biological Building and wrote a note to be read before the medicals.

When Prof. Heebner finished his lecture at 2 p.m., he entered the small room where were President Loudon and Prof. Chapman. President Loudon had apparently wished Prof. Chapman to read this note to the medicals, but he declined, whereupon he asked Prof. Heebner, who was also unwilling to do so, whereupon Mr. McGillivray volunteered to make any announcement.

President Loudon told Mr. McGillivray that policemen were at the entrance to the Biological Building, and Messrs. Tucker and Greenwood would be arrested if they attempted to enter the building. When this announcement was made to the medicals, they tried to leave the room, but found the doors had been barred. Some of the students were forced to climb out of the windows, others forced to open the door and get out that way.

While it may be that certain students may have some feelings of respect towards, or confidence in the President, it is believed that almost any student will testify that almost the universal feeling towards the President is want of respect and confidence.

AGAINST PROFESSOR VANDERSMISSSEN :

(1) Women students get outside help :—Of the class of '95; of the class of '96.

(2) Failure to appear at the usual hour, and neglect. Indeed this is a standing complaint amongst all who have Honor Moderns in the 3rd and 4th years.

(3) In January, 1895, he lost his notes on the Middle High German Text for the fourth year and could not lecture for two weeks.

(4) About March last, he announced that he was preparing a special lecture on "Faust" for the class of '95. This lecture was given March 26th, and was precisely the same as he gave in his first lecture to the class of '95 in their third year.

(5) One of his favorite lectures, "Eur Faust" has been given three times over this year to the third year Honor Moderns.

Almost every graduate and undergraduate of recent years can testify to the want of attention of Professor VanderSmissen.

EXHIBIT E.

MINUTE OF CONFERENCE OF PROFESSOR GOLDWIN SMITH WITH THE UNIVERSITY COMMISSIONERS, APRIL 23RD, 1894.

With regard to the quality of the instruction, the University seems to have borne investigation well. Complaints were lodged against only three of the Professors, and in all three cases they were withdrawn. The ideals of young men are

high. They should remember that neither thorough mastery of a great subject, nor the faculty of teaching it orally, is very common, and that the union of the two is rare. The quality of the instruction too must necessarily bear some proportion to the revenues, the amount of which again depends partly on the fees. More allowance must be made in the case of a lecturer in such a subject as History or Political Economy, who has to draw for an hour on his own knowledge, thought, and power of expression, than in that of a lecturer in Physical Science or any subject in which the lecturer is relieved by experiment or demonstration.

At the same time the choice of instructors for the University of Toronto has perhaps not been entirely free. It may have been restricted in some degree by Nativism. When, some years ago, two or three Englishmen were appointed to professorships, a strong manifestation of Nativist feeling ensued. Two men, both of whom have since greatly distinguished themselves as heads of places of education, have at different times within my own memory appeared, or been currently mentioned as possible candidates for office in Toronto University, and in such cases Nativist jealousy was aroused, and steps were taken to block the possible candidature. At Cornell University, with which I have an honorary connection, the President is a native of Canada, though naturalized in the United States; the Librarian is a Canadian; two of the Professors are Englishmen; and I see that a Canadian has just been appointed as assistant Professor. Cornell freely welcomes capacity without regard to birth-place or extraction. It is partly to this probably that she owes her rise in twenty-six years from her foundation to a place among the great Universities on this Continent, with a fair hope of a place among the great Universities of the World. It is not unlikely that Nativist feeling may have had something to do with the attack on Professor Mavor. It appears at least from the language in which the charges were couched that, in his case, dissatisfaction with the lectures was not the sole origin of the movement.

It is in the department of discipline that the breakdown has occurred, and the necessity for this investigation has arisen. The boycott was organized mutiny, and to it authority appears to have succumbed. Authority probably has, in these times, to deal with more difficult matter than it had in times past. Formerly the students were not only much fewer in number, but came from homes in which respect both for authority and for social rules was traditional and strong. Student respect for authority and social rules is the mainspring of discipline in an English University, and no doubt it was, for some time, the mainspring here. At Oxford we had sometimes to deal with disorder, especially among the wealthier and less industrious students, but never with mutiny; while an appeal to the instincts of gentlemen seldom failed of its effect. An outbreak of "hazing" of a kind offensive and insulting to the victim could be quelled by a serious intimation that the College held itself bound to protect the feelings and honor of everyone beneath its roof, and would perform that duty at any cost. But the free High Schools are now sending up a large number of students of a class probably more democratic and less amenable to social rules. Moreover by the general tendencies of the age, authority is being everywhere relaxed and disrespect for it is gaining ground. The Counsel for the students no doubt truly expressed the sentiments of his clients when he said that the Professors existed for the students and not the students for the Professors; though he might have qualified his remark by a recognition of the two-fold function of a Professor, who ought not only to teach his students, but by study and research to advance his department of knowledge for the benefit of the world at large. A rougher version of the same sentiment was the cry heard by one of the witnesses before the Commission that "seven hundred students were not to be put down by a few beggarly Professors." As if the seven hundred

men of one of our volunteer regiments were to say that they were not to be put down by a few beggarly officers. In addition to this, our political elections and campaigns have bred a general habit of agitation, perhaps of intrigue, and a love of mass meetings and oratorical excitement, which may have penetrated the student world. It is a significant fact that a large proportion of the active element in this movement should have been furnished by the department of Political Science. Whether the studies comprised in the department of Political Science are sufficiently substantial and disciplinary in their character to constitute a University training may be a point for consideration. That they have a tendency to beget political aspirations and activity at an early age seems beyond question.

Whether there has been any lack of the power of control in the authorities personally or any of them, is a question respecting which I, of course, have no means of forming an opinion. The absence of the Chancellor at the crisis, though unavoidable, was unfortunate, since he is probably to the student mind the highest and most imposing embodiment of academical law, while he would have stood apart from all the embroilments and altercations.

Such being the state of affairs, any proposal for strengthening the hands of authority, or invigorating discipline, will certainly be in season. Nor need it involve any suggestion of harshness in the relation between the governing body of the University and the students, or forgetfulness of the fact that the normal security for order is good feeling kept up by sympathy, tact, and friendly intercourse on the part of the authorities, with loyalty to the University on both sides. It is weakness, that by tempting insubordination, leads to the odious necessity for harsh measures in the end. The proposed establishment of a University Court for disciplinary purposes seems likely to meet the need. Nor have I any change to suggest in the proposed composition of the Court, though the inclusion of a Medical element must depend on the retention of the Medical Department in its present relation to the University. Discipline and administration generally should of course be reposed as far as possible in the hands of men of social experience, rather than in those of men of learning and science, who may often be wanting in practical wisdom and in the power of dealing with young men. A perplexing question arises as to the sphere of the Court's jurisdiction and the line to be drawn between University and College offences, owing to the very peculiar relations of University College to the University, with which it has heretofore been practically identical, and the work of which is still carried on in its buildings. The only solution I can devise is that cases occurring within University College, and not directly in connection with the lectures of the University, should be dealt with by the University Council of discipline through its University College members, who might form a standing committee for that purpose. Cases occurring in Victoria or any affiliated college, there would be no difficulty in leaving to the College, unless the College itself chose to refer them to the University Council.

With regard to the suggestion that the Court of discipline should have jurisdiction over student societies and publications, I cannot help expressing my conviction that the less the University is compromised by responsibility for such societies and publications the better. The trouble in the present case has arisen partly from the equivocal relations of the University authorities to a College Society and a College Journal. If anything positively objectionable is done or written, discipline must intervene in the ordinary course; but otherwise it seems better in these matters to leave the students free. I have read for many years the *Cornell Era*, which is the college journal of Cornell University, and I do not

remember to have seen in it anything disloyal to the government of the University, or open to serious objection of any kind.

Nor does it appear to me that much is likely to be gained by any standing representation of the students for the purpose of treating with the authorities of the University. The powers and functions of such a body would be apt to become matters of dispute and to give rise to misunderstanding. There need be no difficulty, when special occasion for conference arises, in obtaining a suitable representation. At Cornell they have a Student Council, elected by the students, for dealing with cases of student discipline, to which its jurisdiction is strictly confined. The President of the University takes the chair and has a vote, which, however, he does not use. Opinion seemed favorable to the institution. But in a conversation which I had with the President he admitted that the student members of the Council were placed in a somewhat invidious position in relation to their fellow-students, and that elections had been declined on that account. It is desirable that the President of the University should be as little as possible burdened with lectures, and as much as possible devoted to general government and superintendence, the maintenance of harmonious action between the different departments, and personal intercourse with the students, which, the number being as large as it now is, would give him plenty of occupation.

I should be for severing the Medical Faculty, so far as it is professional, altogether from the University, and making it an independent organization like the organization of the legal profession at Osgoode Hall. I do not see what strictly professional studies, such as Medicine and Dentistry, have to do with a University course. A University has hitherto been taken to be a final place of mental discipline and culture, imparted through studies not professional, though introductory to learned and scientific professions, such as the departments of Physical Science, which lead on to Medicine and other scientific callings, while in themselves they are unprofessional and instruments of discipline and culture. The special training and regulation of a profession are surely best committed to its own chiefs. The Medical Department once severed from Toronto University, all dissensions and causes of friction between it and independent medical organizations would be extinguished, perhaps the result ultimately would be their voluntary consolidation. The additional bulk which a University gains by the annexation of a professional school is hollow and of little value.

The most important of the suggestions which I have to offer and which I believe will meet with extensive concurrence, is that the University should be separated from the political government of the Province and placed, like the English Universities, under a government of its own, subject only to the law of the land and to any external check on its legislation which it may be deemed expedient to impose. The reason for this is general, and involves no disparagement of the intentions or of the action of the Ontario Government. The English principle is right which places the Universities beyond the reach of political and party influence. Such connection as the English Universities have had with political party has arisen, not from their form of government, but mainly from the preponderance, now happily terminated, of the clerical element, which was allied with a reactionary party in the State. Amidst the chances of party warfare and the necessities imposed upon leaders of party in the distribution of political offices, it is not likely that a Cabinet will often, much less that it will always, contain a member fitted by his turn of mind and by his experience of acrimonial matters, to regulate a University. Fear of political influence has operated in one instance at least to deter a Canadian college from coming into University Confederation. It is well known also that connection with Government operates as a bar to private benefaction. The Government would lose little by the change,

while it would be relieved of some embarrassments. It cannot derive much strength from patronage which it is not at liberty to use in requiting political effort or attracting political support. On the other hand, Government may be swayed in academical appointments by political fear, and its political tremors may, in some crisis like the present, communicate themselves to the action of the authorities of the University.

I would venture to suggest, therefore, that the estate should be made over to the University, to be managed by its trustees or through a Committee of the Senate, perhaps with the Vice-Chancellor in the chair, and, of course, with a professional Bursar. The nominations to the Presidency and the Professorships I would give to the Chancellor, but require him to submit them for acceptance or rejection to the Senate. I would require him, before sending a name to the Senate for a Professorship, to communicate it to the President of the University and hear what the President has to say. At Oxford and Cambridge the appointment of some Professorships has been given to Boards of experts; but experience seems to show that individual responsibility is the best security. Legislation would be the function of the Senate, which, in any case involving a draft upon the revenues, would, of course, consult the trustees or its managing committee. At Oxford and Cambridge, such of the University and College statutes as have been framed or ratified under Parliamentary authority, can be amended only with the consent of the Privy Council, which in England is not a political body. Submission to the Lieutenant-Governor might form a similar safeguard here.

In any case it will be most reasonable and necessary to give all the University Professors, who constitute the working body of the Constitution, seats in the Senate, their representation in which is manifestly inadequate.

EXHIBIT F.

SUGGESTIONS OF THE UNIVERSITY COUNCIL AND THE COUNCIL OF UNIVERSITY COLLEGE.

I. The establishment of a "University Court," with full powers of expulsion, suspension, infliction of fines, etc., to deal with all University breaches of discipline, whether arising out of the examinations, or in connection with the regular work of the term.

COMPOSITION OF THE COURT.

The President and one member from each of the following bodies:—
The University Professoriate.

The University College.

Victoria University.

The School of Science.

The Medical Faculty.

The Councils think that such a Court should also have power to deal with contraventions of College regulations of sufficient gravity, on the report of the College authorities. The Court should have control of all Societies and Associations of students, also of all student publications, with power to delegate the supervision to members of the Professoriate.

In the case of Societies decided by the "Court" to be "College" societies the control must be delegated by the "Court" to the College to which they belong.

It is extremely desirable that there should be a uniform system of discipline throughout the whole University, and that the Court should be limited in numbers and yet contain a member of each of the divisions, in order to secure the cohesion of the University.

"College" Societies not infrequently become "University" societies, and the decisions as to whether this has taken place or not should rest with this central authority.

II. A more exact definition of the distinction between University and College offences than now exists.

The new University Act should define the distinction between University and College offences. We have experienced great difficulty in making any distinction in the case of University College, which uses the same building as the University, at the same time.

A similar difficulty arises in the case of the Medical Faculty. The difficulty of distinguishing between University and College administration is also greatly felt in such questions as the control of the buildings and grounds, the admission of outside lecturers, the allotment of rooms, the preparation of the estimates for the year, the compilation of the Calendar and the control of the College Residence

III. The establishment of a new Council, consisting of the joint Professoriates of both University and Colleges.

1. To exercise the functions of the Senate Committee on applications and memorials.

2. To fix the time-table of lectures.

3. To undertake the revision of the curriculum in Arts subject to the assent of the Senate, this revision to be undertaken in conjunction with representatives of the High Schools on the Senate, representatives of the School of Science and of the Education Department, together with the Heads of all affiliated institutions concerned in the Arts curriculum.

It has been found necessary in the past to have meetings of the joint Professoriates in order to arrange the time-table and to undertake the revision of the curriculum, and we think this body should have a statutory existence. It is suggested that to these functions should be added those of the Senate Committee on Applications and Memorials as defined in the statute, viz.:—

"All petitions and memorials relating to attendance at lectures and examinations or academic standing shall be laid . . . before the Committee, which shall report to the Senate, with recommendations in each case."

IV. The formation of the Medical Faculty into an independent Collegiate body, with powers of discipline and administration similar to those of the several Colleges of the University.

The advisability of this is evident from the fact that in the present University Council the number of the Medical exceeds that of the Arts Professors, and also that matters affecting the Medical Faculty are necessarily distinct from those of the Arts Faculty.

V. A better representation of the several departments of the University and of the College and Medical Faculty on the Senate.

The Councils think that every graduating department in the University should be represented on the Senate, and they recommend that the University Professoriate in Arts should be *ex officio* members of the Senate, and that a suitable number of representatives should be appointed by each of the Colleges of the University, that is to say, from the Professoriates of University College, Victoria College, and from the Medical Faculty.

The necessity for a change in this direction is apparent from the fact that, at present, of the sixty members constituting the Senate, only three represent the University and one University College.